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COMMISSION ON HUMAN RIGHTS

Fifty-eighth session

SUMMARY RECORD OF THE 41st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 16 April 2002, at 10 a.m.

Chairperson: Mr. JAKUBOWSKI (Poland)

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The meeting was called to order at 10.10 a.m.

REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 4) (continued)

1. The CHAIRPERSON said he took it that the Commission wished to take action on the draft decision submitted by Pakistan at the previous meeting.

2. Mr. LEVY (Observer for Israel) said that the draft decision was one more example of the singling out of Israel, in a series of one-sided resolutions and he urged speakers to refrain from using inflammatory language and from using the Holocaust to illustrate their political points. The matter of sending a visiting mission to the Middle East, led by the High Commissioner for Human Rights, had already been discussed. Adopting another resolution against Israel was superfluous and would not be helpful.

3. Massacres were being perpetrated against innocent Jewish victims. The previous week, a suicide bombing in Jerusalem had killed 6 passengers at a bus station and wounded 64. What had occurred at the Jenin refugee camp had been severe fighting, in which 23 Israeli soldiers had been killed and many more had been wounded, largely because of the suicide tactics used by the Palestinians. The Palestinians, who had fought off the Israel Defence Forces (IDF) for six days, had buried their own dead in mass graves. The IDF had had nothing to do with it.

4. The Israeli Supreme Court had recently received an appeal from two human rights organizations and two members of Parliament and, on 15 April 2002, had ruled that the IDF was prohibited from removing and burying the bodies of Palestinians killed in the fighting. The IDF had committed itself to the Supreme Court to enable the International Committee of the Red Cross (ICRC) to participate in the location, identification, documentation and photographing of bodies. Representatives of the Palestinian Red Crescent Society were expected to participate in that important humanitarian task. There was reason to believe, however, that some of the bodies had been booby-trapped, so it was essential to proceed carefully.

5. His Government fully supported the important mission of the United States Secretary of State, who was currently visiting the area in an attempt to stabilize a ceasefire and help the parties to resume negotiations. Israel had announced that it would withdraw within days from all the major cities and villages in the West Bank.

6. Mr. RAMLAWI (Observer for Palestine) asked why the IDF had closed the towns and camps in which it was carrying out military operations if it were not to hide the crimes and massacres perpetrated against the Palestinian people. He also asked why the IDF had invaded the Jenin refugee camp, causing casualties on both sides.

7. An ICRC representative had compared the situation in Jenin to atrocities he had witnessed during the Second World War. Other reports indicated that the situation was comparable to the 1982 massacres at the Shabra and Shatila refugee camps, also masterminded

by Ariel Sharon. It was unrealistic to think that the Palestinians would cause such devastation to their own people. His delegation had made no false allegations. The Israeli Prime Minister was the criminal responsible for the massacres.

8. Mr. SALLOUM (Syrian Arab Republic), speaking on a point of order, said that the Commission should proceed directly to the vote. Giving the observer for Israel the opportunity to reply at that stage of the meeting was against the rules of procedure.

9. The CHAIRPERSON said that, while he did not wish to delay the voting procedures, he considered that the observer for Israel, a concerned country, should be given the opportunity to reply to the specific questions put by the representative of Palestine, in order to clarify the situation as much as possible.

10. Mr. PEREZ-VILLANUEVA y TOVAR (Spain), speaking on behalf of the European Union, said that he supported the Chairperson's decision to give the floor to the observer for Israel.

11. Mr. LEVY (Observer for Israel), replying to the questions by the representative of Palestine, stressed that Israel had nothing to hide in the Jenin refugee camp. He drew attention to the fact that the media had been invited into the camp and that humanitarian agencies were working there. The IDF had entered that particular camp because 23 Palestinian suicide bombers had set out on their missions from it. Many tons of explosives had been found in laboratories there. Much of the damage in Jenin had been caused by would-be suicide bombers who had tied dynamite to themselves.

12. Mr. RAMLAWI (Observer for Palestine) said that the Jenin camp had been closed to the media until the IDF had hidden all the evidence. If the IDF had entered the camp at Jenin simply because it had been a source of suicide bombers, then it must explain the occupation of other Palestinian territories. The Palestinians would not surrender and considered fedayeen acts to be a legitimate response to the occupation.

13. Mr. AKRAM (Pakistan), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the Commission should act on the draft decision without delay because of the gravity of the situation and because the question of the Middle East had already consumed so much of its time.

14. He had taken into account the views expressed in the Commission and had changed the word order of the first operative paragraph and had deleted the word "authentic" from the third. He hoped that the revised decision would meet with the Commission's approval. It would read:

"The Commission on Human Rights

1. Expresses its deep dismay that its resolution 2002/1 of 5 April 2002 has not been implemented, due to the absence of a positive response from the occupying Power, even though the human rights situation in the Palestinian occupied territory has continued to deteriorate.

2. Calls for the immediate implementation of its resolution 2002/1 of 5 April 2002.

3. Urges the High Commissioner for Human Rights to report urgently to the Commission on Human Rights on the deteriorating human rights situation in the occupied Palestinian territory on the basis of reports from all concerned organizations present in the occupied territories."

15. Mr. ARENALES FORNO (Guatemala), speaking in explanation of the vote before voting, said that his delegation would vote against the draft decision because it failed to take into account some promising recent initiatives, such as that of the United States Secretary of State, who was currently on a mission to the Middle East. His delegation had not voted in favour of resolution 2002/1 on the situation of human rights in the occupied Palestinian territory because, for political reasons, it divided and rendered unmanageable topics whose negotiation required unity. The draft decision would serve only to complicate matters still further. The Commission should not interfere with initiatives that counted on the full support of both parties. An attempt to force or accelerate a mission by the High Commissioner to the region would not help either the human rights situation or the resumption of negotiations.

16. At the request of the representatives of Canada and Guatemala, a recorded vote was taken on the draft decision.

In favour: Algeria, Armenia, Austria, Bahrain, Belgium, Brazil, Burundi, Chile, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, India, Indonesia, Italy, Japan, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Portugal, Republic of Korea, Saudi Arabia, Senegal, South Africa, Spain, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Uganda, Uruguay, Venezuela, Viet Nam, Zambia.

Against: Canada, Guatemala.

Abstaining: Argentina, Cameroon, Croatia, Czech Republic, France, Germany, Poland, Russian Federation, United Kingdom of Great Britain and Northern Ireland.

17. The draft decision, as orally revised, was adopted by 41 votes to 2, with 9 abstentions.

18. Ms. GERVAIS-VIDRICAIRE (Canada) said that, although her delegation was deeply concerned about the human rights situation in the occupied territories, it had voted against the decision because it had serious reservations regarding the nature of the proposed observer mission and considered that resolution 2002/1 did not accurately reflect the full context of the current situation in the region.

19. Her delegation had repeatedly stated that, in order to make a positive contribution to the search for peace, third-party monitoring must be accepted by both parties. As yet, the parties involved had not indicated that they would accept such a mission.

20. The maintenance of international peace and security was the responsibility of the Security Council, which was also the most appropriate body to pursue any such initiatives. She urged the other United Nations organs to take a step back, or risk undermining the work of the Security Council, the initiatives of the United States Secretary of State and the recent joint statement issued in Madrid by the European Union, the United Nations, the Russian Federation and the United States.

21. Mr. LEWALTER (Germany) said that, while his delegation supported the visiting mission of the High Commissioner to the occupied territories, it had abstained from voting because it took the view that the mandate contained in the decision had not been formulated in a balanced way and did not reflect the concerns expressed at previous meetings.

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(agenda item 11) (continued) (E/CN.4/2002/5, 7, 8, 12, 63-68, 69 and Add.1, 70, 71, 72 and Add.1-3, 73 and Add.1 and 2, 74 and Corr.1 and Add.1 and Corr.1 and Add.2, 75 and Add.1 and 2, 76, 77 and Add.1 and 2, 78, 79, 121, 122, 124, 125, 130, 134, 137, 143, 144, 152, 154, 155, 157, 162, 163, 170 and 173; E/CN.4/2002/NGO/1, 9-11, 16, 18, 19, 25, 30, 38, 42, 49, 53, 70-79, 100, 104, 106, 120, 126, 131-141, 144, 148, 162, 164, 177, 182-187 and 193; A/56/181 and 253; A/RES/56/143; E/CN.4/Sub.2/2001/6 and Corr.1 and 31)

22. Mr. DE LA LAMA (Secretariat), making an introductory statement on behalf of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, said that, due to the time constraints faced by the Commission, it was impossible to provide a full introduction to the report in question (E/CN.4/2002/75 and Add.1 and 2). It was hoped that the situation, which was due to the exceptional circumstances that had arisen at the current session, would not set a precedent.

23. The report addressed issues of racism, broadcasting, the Internet and the events of 11 September 2001. The report on the Special Rapporteur's visit to Argentina, his first visit to South America, was contained in document E/CN.4/2002/75/Add.1.

24. Ms. NASCIMBENE DE DUMONT (Argentina), responding to the report of the Special Rapporteur on the right to freedom of opinion and expression (E/CN.4/2002/75/Add.1), said that, although the Special Rapporteur had visited her country in July 2001, the report had only recently become available on the Internet. Her Government had thus been unable to consider it properly and had been unable to consult provincial authorities on the questions raised therein. Consequently, it would be submitting a written reply.

25. Since its return to democracy in 1983, Argentina had embarked upon a long process to restore and recover its citizens' rights. It was currently making progress in fostering human rights, particularly freedom of expression, which was one of the cornerstones of governance. The incidents alleged by the Special Rapporteur to be violations of freedom of expression and opinion were being investigated by the competent authorities and her Government would be submitting a report in due course.

26. The Special Rapporteur's report predated the events of December 2001 in Argentina and she wished to make it clear that freedom of expression and opinion had not been undermined in any way during that period. Her Government was intent on overcoming the current crisis in full respect for its citizens' rights: interviews were broadcast in the international media and the demands of the protesters were aired in public in an atmosphere of complete freedom of expression.

27. Mr. DE LA LAMA (Secretariat), reading an introductory statement on behalf of Mr. Ivan Tosevski, member of the Working Group on Enforced or Involuntary Disappearances in presentation of its report (E/CN.4/2002/79), said that, since its establishment in 1980, the Working Group had transmitted 49,780 cases of alleged enforced disappearance to 76 Governments. Despite the fact that only 7,921 of the cases had been clarified, there had been a continuing decline in recent years in the number of disappearances worldwide, which should be regarded as a positive development. During 2001, the Working Group had been able to clarify 4,419 cases of enforced disappearance, the vast majority of which related to Sri Lanka, an example which reflected the Working Group's approach of inviting Governments with large numbers of unresolved cases to consider ways of clarifying them and taking appropriate measures to provide compensation to the families.

28. Impunity continued to be a major reason for the practice of enforced disappearance and increased efforts were required to include enforced or involuntary disappearance in all domestic criminal codes and to bring the perpetrators to justice. The Working Group was pleased, therefore, that the Rome Statute of the International Criminal Court explicitly included enforced disappearance in the list of crimes against humanity and hoped that the Commission would soon finalize the drafting of the international convention on the protection of all persons from enforced disappearance. The Working Group thanked international, regional and local non-governmental organizations (NGOs) for their cooperation and support and appealed to the Commission for the allocation of adequate resources, which were indispensable for the effective fulfilment of its mandate.

29. Mr. PREMONT (Secretariat), reading an introductory statement on behalf of Mr. Ivan Tosevski, member of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, drew the Commission's attention to the report of the Secretary-General on the Fund (E/CN.4/2002/66) updating the main report on the Fund (A/56/181) and said that the Board made recommendations for grants only on the basis of contributions officially registered by the United Nations Treasurer as available directly before its annual session. For the current year, requests for grants amounted to around US$ 12 million. However, according to the information available, only US$ 1.4 million had been paid into the Fund in new voluntary contributions and an additional amount of US$ 10.6 million was thus needed to satisfy all the requests. Since the Board would be able to consider at its annual session only the contributions paid to and registered by the United Nations Treasurer, it strongly encouraged donors who had pledged a contribution and other regular donors to pay their contributions before the end of the Commission's current session.

30. Mrs. SETYANA (Third World Movement Against Exploitation of Women), speaking also on behalf of the Robert F. Kennedy Memorial, said that, the Indonesian military and police continued to practise with impunity torture, enforced disappearance and arbitrary detention, particularly in Aceh and Irian Jaya. Although an Ad-hoc Human Rights Court and a Corruption Court were in the process of being established, it was questionable whether they would be able to ensure law enforcement and they might well be corrupted just as the Commercial Court had been. Even the law establishing the Human Rights Court had deficiencies which would hamper investigation and prosecution and facilitate the impunity of the perpetrators. She thus called upon the Commission to urge the Indonesian Government to monitor the operation of the Human Rights Court; to incorporate the definition of "torture" into the Indonesian Criminal Code; to undertake reforms to stop the use of torture by the police and to invite the Special Rapporteur on the question of torture to visit and examine all reports of torture, especially in the conflict regions.

31. Ms. DARGEL (World Organization of Former Pupils of Catholic Education) said that her organization considered it essential that training courses should be organized for the teaching of religions and of their role in history. Having already been asked eight years previously to teach human rights during the United Nations Decade for Human Rights Education, schools belonging to a specific denomination could use the Universal Declaration of Human Rights as a yardstick for measuring the foundations of their religion and its actions throughout history. It was essential to be versed in one's own faith before being able to know and respect that of one's neighbours. The Commission should support the activities of the Special Rapporteurs on the freedom of religion or belief and education and should further efforts to achieve inter-religious peace.

32. Mr. LITTMAN (World Union for Progressive Judaism) said he wished to inform the Commission of a recent call by the Imam of Al-Azhar, the spiritual leader of the Muslim Sunni world, to the Palestinian people of all factions to intensify their martyrdom operations. That was a regrettable reversal which aligned the official Sunni Islam position with that of Shi'ah Islam. Suicide bombing was a manifest defamation of a religion but it had not been explicitly

condemned in resolution E/CN.4/2002/L.9 on combating defamation of religions. He called upon the Secretary-General, the High Commissioner for Human Rights, the Commission, all competent United Nations bodies, the OIC and the Arab League to act immediately to outlaw suicide bombings.

33. Mr. GORDON-LENNOX (Reporters Without Borders International) said that he wished to address the matter of impunity for crimes against journalists and noted that some members of the Commission, which were still not parties to the International Covenant on Civil and Political Rights, stifled the media with full impunity. The current events in the Middle East starkly illustrated the methods used in many areas to prevent journalists from exercising their right to information and the public's right to be informed. In Israel at least one journalist had been killed, a number wounded and some taken prisoner since September 2000. The few investigations made had been superficial and biased.

34. In Bangladesh, over 50 reporters had been attacked since 2001 and suspects were rarely arrested. Impunity was also the norm in Burkina Faso, Ukraine and Haiti and in Colombia 40 journalists had been killed over the past 10 years. In parts of Africa and Latin America, Governments had adopted repressive press laws under which the State could sanction trumped-up charges with heavy jail terms. Meanwhile, China held at least 13 journalists and 22 cyber-dissidents in its jails, Viet Nam had at least 3 opposition journalists and 2 cyber-dissidents in jail or under house arrest and Myanmar continued to detain 17 journalists.

35. The fight against terrorism had led to increasing repression of the freedom of expression, even in countries with democratic forms of government. In Nepal, the fight against the Maoist "terrorists" had led to the arrest of over 100 journalists. Even in the European Union and North America, disturbing new threats to pluralist and free information sources were emerging. His organization strongly supported the work of the relevant Commission mechanisms in following up investigations into the murder of journalists and contributing to the fight against impunity. It was particularly grateful to the Special Rapporteur on freedom of expression for his nine years of hard work.

36. Ms. CLARK (International Rehabilitation Council for Torture Victims (IRCT)) said that there were inherent dangers in seeking a balance between national security concerns and human rights, as could be seen in countries such as Zimbabwe and Turkey. In Australia, the threat of terrorism had been used as a political tool to dehumanize asylum-seekers and refugees and justify the ongoing practice of mandatory detention. There were other Member States whose response to the war against terrorism had included new legislative measures restricting civil and political rights, or which had attempted to legitimize or rationalize the use of torture. The Commission should finalize the text of the optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment so as to promote the more effective implementation by States of their obligation to prevent torture.

37. She stressed the importance of the United Nations Voluntary Fund for Victims of Torture in providing support for the rehabilitation of torture victims and urged all Member States to increase their contributions to the Fund. She welcomed the publication by the Office of the

High Commissioner for Human Rights (OHCHR) of the Istanbul Protocol as part of its Professional Training Series. Her organization used the Protocol as a standard reference for its project and training activities and it was an effective tool in work against torture.

38. Mr. WISHAH (Palestinian Centre for Human Rights), speaking also on behalf of the Palestinian Society for the Protection of Human Rights and the Environment (LAW), said that, as the instance of last resort, the Commission was looked to by the Palestinian people for the alleviation of their sufferings. He wished to apologize for the time and effort spent in the Commission discussing Palestine at the expense of other important issues. However, the fight for the cause of Palestine was a fight for the cause of all the oppressed peoples of the world. As a Palestinian, he had known what it was like to be a victim, having spent over 15 years in Israeli jails and having met a great many other Palestinians who had suffered the same fate. On behalf of all Palestinian prisoners and victims he called upon the Commission, as the conscience of the world, to help put an end to their sufferings.

39. Mr. CAN (Transnational Radical Party) said that he was a representative of the Uyghur people of Eastern Turkestan who faced extinction due to China's policy of colonization, assimilation, State terror and intimidation, unless the world community intervened. ...

40. Mr. SHEN Yongxiang (China), speaking on a point of order, said that the statement by the representative of the Transnational Radical Party was contrary to the principles of the Universal Declaration of Human Rights. Xinjiang was a part of China, as recognized by all Members of the United Nations. That representative's statement represented a violation of China's territorial rights which the Chinese delegation could not tolerate and it therefore asked the Chairperson to intervene.

41. The CHAIRPERSON said that the speaker was a duly accredited representative of an NGO in general consultative status with the Economic and Social Council. The Transnational Radical Party should, however, observe the spirit of debate agreed upon at the beginning of the session. Issues should be discussed in accordance with international standards. He invited the speaker to continue his statement.

42. Mr. CAN (Transnational Radical Party) said that China regarded the struggle for basic human rights in the region as grounds for brutality, imprisonment and death. Since the terrorist attacks of 11 September 2001, the Government had launched a campaign to portray the Uyghur freedom movement as terrorism. The Eastern Turkestan region was the only place in China where political dissidents were known to have been executed. Under the guise of maintaining stability, the Chinese Government engaged in mass jailings, torture and extrajudicial executions.

43. His organization called upon China for an immediate halt to all executions, an end to the persecution of Uyghur political dissidents and the release of those in prison for their political and religious beliefs. The death penalty and other practices that were contrary to the rule of law should be abolished and religious freedom granted. The Chinese leadership should launch a constructive dialogue with the real representatives of Eastern Turkestan. The illegal transfers of

population to the region should stop as should the forcible implementation of the notorious birth control policy, the policy of ethnic cleansing, the criminalization of the civilian population and all other forms of social, cultural and economic discrimination. He urged the Commission to send a fact-finding mission to find out who was terrorizing whom.

44. Ms. FREITH (Human Rights Watch) called on all members of the Commission to support the draft resolution (E/CN.4/2002/L.5) on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which had been finally completed after a decade of intense work. Adoption of the resolution would be one of the most important achievements of the session.

45. The human rights situation in the Islamic Republic of Iran was worsening rather than improving, a particularly worrying development being the emergence of illegal detention centres. Some political prisoners had been detained in them for months on end without their families or lawyers being informed of their whereabouts. There had also been a sharp increase in public executions and public floggings. Since the parliamentary elections in February 2000, pressure had intensified on the independent media, on members of the Government, on intellectuals and political activists who advocated reform, on persons who had participated in international conferences and on members of religious minorities.

46. The Commission should express its grave concern and renew the mandate of the Special Representative on the situation of human rights in the Islamic Republic of Iran.

47. Ms. SONG (Liberation) said that there were over 10,000 political prisoners in Turkey, most of whom were Kurds. The Commission should press Turkey for the immediate release of the members of the Party for Democracy (DEP) and a general amnesty for all political prisoners.

48. Pakistan maintained extremely repressive and arbitrary laws governing the freedom of belief and conscience. Blasphemy charges had been brought against various religious and sectarian minorities. False charges had been pressed against journalists for political reasons.

49. The illegal occupation of Western Sahara by Morocco since 1975 had resulted in systematic human rights violations. The defenceless Saharan population had been subjected to arbitrary arrests, unfair trials and extrajudicial executions.

50. Her organization was concerned about impunity in Indonesia, more particularly the lack of accountability of the security forces for numerous atrocities in Aceh and West Papua. The Commission should press Indonesia to implement the recommendations of the Committee against Torture, which had expressed concern about the climate of impunity in that country.

51. Ms. TURNER (Amnesty International) said that the current session provided an exceptional opportunity to prevent torture worldwide: the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would establish a dual national and international system of visits to places where people were deprived of their liberty, with the purpose of making recommendations to prevent torture and

ill-treatment. Its focus on prevention made it unique in the United Nations system. After a decade of negotiations, the draft text represented an important breakthrough and her organization urged the Commission to give the proposal, as it stood, its firm and unconditional support.

52. Enforced or involuntary disappearances were among the most appalling forms of human rights violations. The Commission should instruct its intersessional open-ended working group to prepare a legally binding normative instrument for the protection of all persons from enforced disappearance and to submit its recommendations to the Commission well before the fifty-ninth session.

53. In spite of continued progress towards the worldwide abolition of the death penalty, there had been 3,048 executions worldwide, more than twice the number recorded in 2000. Many prisoners had been executed after unfair trials and there were many that might have been tortured. The Commission should adopt a strong resolution calling for a worldwide moratorium on executions and the observance of established safeguards.

54. Ms. COOMBER (South Asia Human Rights Documentation Centre) said that the observer for Singapore had recently implied that, due to its historical development, Singapore should somehow be exempt from compliance with international human rights law. That was not so: Singapore had no excuse for its continued denial of civil and political rights. The authorities limited opposition through restriction on the freedom of speech and the press. A recently established Speakers' Corner had been hailed as a breakthrough, but speakers were required to register with the police before speaking, and their speeches were recorded and kept. The speeches could be used in defamation suits, a favourite tool of the political establishment to crush democratic opponents. The scales of justice were weighted too heavily against freedom of speech and, as intended, political dissent was discouraged.

55. All the media were controlled by two companies, both of which enjoyed close relations with the ruling party. Recent amendments to the Broadcasting Authority Act and the Parliamentary Elections (Election Advertising) Regulations had further stifled scrutiny of the Government by foreign media and on the Internet. Singapore had constructed a paper-thin veneer of democracy, development and freedom that largely insulated it from international criticism.

56. Ms. RICUPERO (World Organization Against Torture) said that, although no country officially defended the practice, torture was widespread. In Tunisia, it had long been used to stifle criticism and dissent. Many hundreds of political prisoners were detained in harsh conditions and the Government of Tunisia had failed to respond to the requests by the Special Rapporteur on the question of torture for an invitation to visit the country.

57. In Saudi Arabia, intolerance of any kind of dissent and the extreme secrecy in which the criminal justice system operated had led to frequent instances of torture and other ill-treatment, with absolute impunity. Numerous people had died as a result. Amongst those must vulnerable to torture were the political opposition, migrant workers, members of religious or other minorities and women.

58. In Brazil, torture was routine in the investigation of crime. Measures announced following the visit of the Special Rapporteur and the recommendations of the Committee against Torture had not yet succeeded in eradicating the practice. The Government should take practical steps to end impunity, thereby sending a message to its law-enforcement personnel that torture would no longer be tolerated.

59. Her organization was deeply concerned that the terrorist attacks of 11 September 2001 had led to a questioning of the prohibition of torture and the erosion of some of the core legal guarantees against the practice. The United States of America, the United Kingdom and India, among others, had either adopted or were contemplating the adoption of legislation to fight terrorism. Countries which already had such legislation in place had found that it could be applied without criticism, even if it involved holding prisoners incommunicado or indefinitely in administrative detention, while vague definitions of terrorism or aiding terrorism were applied. Some countries had also allowed civilians to be tried by military courts. Where it was applicable only to non-citizens, such legislation was blatantly discriminatory and in violation of international standards. It was all too possible that its application would lead to widespread human rights violations and torture. The recommendation by OHCHR for a mechanism to be established to examine, from a human rights perspective, the counter-terrorism measures adopted by States was thus very welcome.

60. Ms. DUGAL-GUJRAL (Baha'i International Community) said that the situation of the Baha'is in Egypt had taken a sharp turn for the worse. In one region, some of them had been arrested and detained without charge, for up to 10 months. No official reason had been given. The six who had been released on bail remained subject to rearrest. The incident constituted a clear case of violation of freedom of religion.

61. Active persecution of the Baha'i community had begun in earnest under President Nasser, who had dissolved all Baha'i institutions and appropriated their properties for the benefit of certain Muslim organizations. The Baha'i faith had been pronounced a heresy and the population had been called upon to boycott all Baha'is.

62. On several occasions, Baha'is had been imprisoned solely on account of their religious convictions. All members of the community remained under strict and constant police surveillance. Their homes were periodically searched and their literature confiscated and destroyed. They had no legal rights with regard to marriage, family allowances, pensions, inheritance, divorce, alimony, child custody, family identity cards or birth certificates. The Government-controlled news media periodically orchestrated hate campaigns against the Baha'i faith. Most recently in January 2001, the Grand Mufti had issued a fatwa confirming the necessity of punishing the Baha'i community for apostasy.

63. The Baha'is in Egypt were a law-abiding peaceful community. Their sole request was that all official obstructions and restrictions, including Presidential Decree No. 263 of 1960 should be removed. She hoped that the Commission would call upon the Government to take the necessary steps.

64. Ms. LOKSHINA (International League for Human Rights) said that freedom of expression was under increasing threat in Kazakhstan. The crackdown on the independent media had intensified over the past two years. One of the most popular independent television channels had recently been shut down in retaliation for its broadcasting live the largest gathering of the opposition in recent years. Under pressure from the authorities, printers refused to print certain newspapers. In order to survive, the media had had to practice self-censorship. The Government had recently intensified its persecution of its political opponents. Two prominent leaders of the newly created movement Democratic Choice of Kazakhstan had been arrested in March and April 2002 and were currently awaiting trial. Several opposition activists had been arrested over the past few days.

65. Following the elections at which the President of Kyrgyzstan had been elected to a third, unconstitutional, term, several independent and opposition newspapers had been closed down. All attempts at peaceful assembly had been met with a harsh reaction. Police had detained unarmed demonstrators and prevented journalists from filming demonstrations. Such action had culminated in an unprecedented tragedy, when the police had opened fire to disperse several thousand protestors. Seven people had been killed and dozens wounded. The Government had subsequently accused opposition leaders and human rights organizations of incitement to violence.

66. Uzbekistan remained one of the most repressive of the former Soviet Republics. It was holding more than 7,000 political prisoners, more than all the other former republics combined. There was no freedom of the press, opposition was banned and the rights of religious and ethnic minorities were severely limited. Some 70 per cent of the country's mosques had been closed in the past few years. Peaceful Muslims were sentenced to up to 20 years' imprisonment for distributing anti-Government leaflets. There had been at least 15 deaths in detention of persons suspected of collaborating with the Islamic opposition, including a well-known writer and a prominent human rights activist. Only one of the 15 cases had been investigated and the guilty parties brought to justice. However, in August 2001, 860 political prisoners had been pardoned and, on the eve of the President's visit to the United States, a human rights organization had, after five years of effort, been registered. Other human rights groups, however, were still denied registration. Human rights defenders suffered persecution and the Government's internal policies remained repressive.

67. Mr. VAN (International Federation of Human Rights Leagues) said that the establishment of the International Criminal Court, was an outstanding victory for international civil society. However, the Court's jurisdiction was limited to crimes committed in the territory or by a national of a State party and national jurisdictions took precedence. Moreover, the Court's independence would be determined by the role of the prosecutor. The first step to making justice universal had been taken. The States must continue their progress in the same direction.

68. In Kyrgyzstan, judicial power was used to neutralize political opposition, the media and human rights defenders. Torture - which did not appear as a crime in the Penal Code - was a common practice.

69. In the Central African Republic, the coup d'état had been followed by an appeal to racial hatred and appalling massacres by the armed forces of President Patassé. The perpetrators of those crimes went unpunished. The joint commission of judicial enquiry had shown itself to be an organ of political repression. Overcrowded prisons had led to inhuman conditions of detention.

70. In the Congo, confrontations between Government forces and the rebels had resumed during the current session of the Commission. There had already been serious humanitarian consequences, with deaths and the displacement of thousands of civilians.

71. In Tunisia, the dismissal of a judge had revealed the power of the executive over the judiciary. Prisoners of conscience did not receive a fair trial. Torture was systematically practised and there had been nine deaths in custody in 2001 as a result of torture or negligence.

72. In Venezuela, just before the coup d'état, the independence of the judicial system had been diminished and militarized. There had been no adequate response by the State to the growing number of summary executions. The restriction on freedom of expression was also of great concern.

73. In Viet Nam, administrative detention and harassment were favoured weapons for stifling human rights. The Supreme Patriarch of the Unified Buddhist Church had been held without trial for 20 years, while two men had been placed under administrative detention, one for appealing for democracy and the other for attempting to found an anti-corruption association. Officials and veteran communists who had protested against the establishment of new, secret Chinese-Vietnamese borders had been punished. The treaties in question should be published and a referendum giving the Vietnamese people the right freely to dispose of their territory should be held.

74. Ms. MASVAURE (Pax Romana) said that the events of 11 September 2001 had shown the fragility of the current system of global governance. Member States had rushed to introduce legal measures that had little or nothing to do with terrorism, resulting in the militarization of the law and attacks on the freedom of the press, particularly in Asia. The Commission, while addressing the evils of terrorism, must face squarely such threats to human rights.

75. Hatred continued to blaze in inter-ethnic and communal conflicts in Indonesia, Nigeria and India, among others. The Durban Declaration was inadequate to deal with the sharp rise in religious intolerance, while delays in the administration of justice related to incidents of intolerance had fostered the occurrence of human rights violations. International mechanisms and domestic remedies were also inadequate to deal with the problems faced by religious minorities. The Special Rapporteur on freedom of religion or belief should undertake some in-depth investigations.

76. The Commission should take appropriate measures concerning conscientious objection to military service, particularly in countries such as the Republic of Korea and Singapore whose Governments refused to recognize conscientious objection as a universal human right.

77. Lastly, her organization was deeply concerned about freedom of assembly and the right to dissent, specifically as related to recent events at the summit meetings of the G-8 countries in Genoa and the European Union in Barcelona. Demonstrators had been exposed to a disproportionate use of force.

78. Ms. HOEFFKEN (Defence for Children International), speaking also on behalf of the International Network on Juvenile Justice, said that the draft outcome document of the special General Assembly session on children did not sufficiently address the issue of children in conflict with the law. More than one million children worldwide had been deprived of their liberty, the tendency being to incarcerate them. They were often held for long periods of time for quite minor offences and denied due process. Crime prevention strategies which assisted children in the community were in the best interests of the child and, when well planned, in the best interests of the public. They were significantly more cost-effective than incarceration.

79. The Commission should reaffirm that the Convention on the Rights of the Child required public institutions to make the best interests of the child their primary consideration, call upon States to establish procedures to assist children in the community, and to reduce the number of children in custody, and urge the United Nations Children's Fund (UNICEF) to public awareness about the numbers of children in custody and to provide assistance to States to substitute prevention for incarceration.

80. Ms. LONG (Association for the Prevention of Torture) said that, after a decade of negotiations, a breakthrough had been achieved in the working group to elaborate a draft optional protocol to the Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, namely, a Chairperson's text of the draft optional protocol. Nothing would be achieved by extending the discussions further: that compromise text was the best that could be achieved. The Commission should approve it by adopting the draft resolution submitted by the delegation of Costa Rica, by consensus, if possible, but, if necessary, by a vote.

81. Ms. RUBLING (International Fellowship of Reconciliation) said that her organization had closely monitored the systematic infringement of the right of freedom of religion by the Chinese authorities in Tibet in the context of the "patriotic education" campaign. It formed part of the "Strike Hard" campaign launched in China in April 1996, ostensibly to combat crime and corruption, but which was directed in Tibet against those who supported Tibetan independence and the Dalai Lama. As part of the campaign, attempts had been made forcibly to re-educate monks and nuns, limits had been set on the number of monks and nuns permitted to reside in religious institutions, minimum and maximum age limits for the clergy had been set and the display of photographs of the Dalai Lama had been banned.

82. The Tibetan Centre for Human Rights and Democracy had reported that, in the Buddhist Institute in Serthar, the "patriotic education" campaign had led to the expulsion of some 7,500 practitioners, more than 1,800 buildings had been demolished and a ceiling of 1,400 students was being strictly enforced. The administration of the Institute had been disrupted to the point that teaching had virtually come to a standstill. The elderly founder and abbot of the Institute was reportedly receiving medical treatment in a military hospital, but his exact whereabouts and circumstances were unknown.

83. Her organization called upon the Commission to request China to accept a visit by the Special Rapporteur on freedom of religion or belief. In particular, he should be allowed to visit the youth designated as the eleventh Panchen Lama by the Dalai Lama, who had been held incommunicado by the Chinese authorities since May 1995 and who, at the age of 12, was still the world's youngest political prisoner.

84. Mr. KOMLOSSY (Federal Union of European Nationalities) said that, in countries with an official State religion, other religions, although theoretically enjoying full rights, often suffered discrimination. In that context, he wished to draw the attention of the Commission to religious intolerance towards the Hungarian-speaking Csangos in Romania, who were denied the right to hold church services in their mother tongue. In a number of Csango villages Romanian-speaking priests had declared Hungarian to be the language of the devil.

85. The Council of Europe had declared that there should be an option for Roman Catholic services in Hungarian in the churches in the Csango villages, but the relevant local authorities had paid no attention. Article 27 of the International Covenant on Civil and Political Rights, which guaranteed the rights of ethnic or religious minorities was applicable to Romania and the United Nations should devote greater attention to protecting the rights of minorities such as the Csangos.

86. Ms. PUISSANT (France Libertés: Fondation Danielle Mitterand) said that, in Tunisia, prisoners were kept in terrible conditions aggravated by torture and lack of medical care, causing many deaths. Tunisians could be prosecuted for belonging to parties or groups which were not recognized by the Government and, after show trials, were sentenced to terms of imprisonment. Moreover, dozens of prisoners, both political prisoners and ordinary criminals, had died as a result of torture by the police.

87. On 14 March 2002, the European Parliament had adopted a resolution calling on the Government of Tunisia to end the intimidation of human rights defenders and their families and to lift all restrictions on freedom of movement, opinion, information and association and on the right to join political parties. The Tunisian authorities should release all prisoners of conscience and ensure respect for international standards in the prisons. The Commission should take note of the resolution passed by the European Parliament and appoint a special rapporteur to inspect the Tunisian prisons.

88. Mr. FAIZ NAQSHBANDI (International Islamic Federation of Student Organizations) said that India's occupation of Jammu and Kashmir was a blatant violation of the International Covenant on Civil and Political Rights; the Kashmiri people being denied their inalienable right to self-determination in defiance of Security Council resolutions. They were subjected to a reign of terror on the part of Indian troops. As a result of a series of acts voted by the Indian Parliament, the occupation forces were free to commit human rights violations with complete impunity. As a party to the international human rights instruments, India was responsible for the violations of those rights. The Commission should appoint a special rapporteur on the situation of human rights in Jammu and Kashmir.

89. Mr. MASTERS (International Human Rights Association of American Minorities) said the United States of America consistently abused the rights of children, who were treated as adults before the courts and subjected to adult treatment and punishment. Some 200,000 children a year were prosecuted as adults and more than 11,000 children were in adult prisons in the United States. A life sentence without parole for a 13 to 14 year-old child was a cruel and unusual punishment as was the death sentence imposed on 81 juvenile offenders. He recalled that the individual who had attempted to kill President Reagan had been sent to a mental institution because he had the mind of a child and he wondered how, when a child did the same thing, he could be judged and sentenced as an adult.

90. African American youths and those belonging to other minorities were sent to adult courts twice as frequently as whites; the disproportion was outrageous, judging individuals by the colour of their skin or economic status was totally unacceptable.

91. In India, a leading separatist, Mr. Yaskin Malik, had been arrested while addressing a press conference. He had been interrogated and reportedly severely tortured, resulting in damage to his right ear.

92. Mr. SEIDERMAN (International Commission of Jurists) said he welcomed the resolution submitted by the delegation of Costa Rica on a draft optional protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. That new instrument would combat torture by preventing it from occurring and he urged that its text be approved by the Commission at its current session.

93. His organization's annual report Attacks on Justice, reviewed the independence of judges and lawyers in 47 countries. It had found that, in 2000-2001, at least 315 jurists had suffered reprisals for carrying out their professional duties, including 38 killed, 5 disappeared, 44 prosecuted, arrested, detained or tortured, 23 physically attacked, 67 verbally threatened and 109 professionally sanctioned. Moreover, in many countries, the judiciary was also subjected to undue pressure, procedures for the removal or discipline of judges were deficient, there was judicial corruption and impediments to the freedom of association of lawyers. Some of the countries mentioned in that regard were Colombia, Zimbabwe, Venezuela, Iran, China, Indonesia, Kenya, Turkey, Egypt and the United States of America. In the case of the last country, his organization was concerned that the use of "military commissions" to try terrorist suspects had removed an entire class of defendants from the ambit of judicial supervision.

94. He welcomed the report of the Special Rapporteur on the independence of judges and lawyers (E/CN.4/2002/72 and Add.1 and 2) and called on the Governments of Cuba, Egypt, Kenya, Pakistan, Sri Lanka, Turkey and Tunisia to reply positively to the Special Rapporteur's requests to visit their countries.

95. Mr. ANWAR (World Federation of Democratic Youth) deplored the repression of the Mohajir population in Sindh Province in southern Pakistan. The Muttahida Quami Movement (MQM) and Jeay Sindh Quami Mahaz (JSQM) were harassed, their members and leaders, including women, being arrested and tortured and even killed. Police raids were widespread and

the military and the civil administration of the Punjab had made Sindh Province a virtual colony. The whereabouts of 60 missing members of the MQM, noted in the report of the Working Group on Enforced or Involuntary Disappearances in January 1998 were still unknown.

96. The current crisis involving the status of Mohajirs (Urdu speakers) and Sindhis was a direct result of the division of the Indian subcontinent into two States, one Muslim and the other Hindu. The secession of Bangladesh and suppression of the minority provinces by the dominant group proved that that division had been an enormous blunder.

97. Mr. MONOD (War Resisters International) said he welcomed the fact that growing number of young Israelis were refusing to serve in the occupied Palestinian territories, or refusing military service outright. Israeli law made no provision for men to be conscientious objectors and, if they repeatedly refused to serve, they were repeatedly imprisoned; a practice that had been denounced by the Working Group on Arbitrary Detention. The right of women to be conscientious objectors was however recognized, and that was a form of discrimination on the basis of sex.

98. The General Assembly and the Commission had both affirmed the rights of conscientious objectors. Although a growing number of States did recognize the status of conscientious objector, neither Israel nor any Arab country recognized that right. In Russia, although the right to conscientious objector status was recognized in the 1993 Constitution, no implementing legislation had existed until quite recently. A Bill had been introduced in February 2002 which would provide for a four-year period of non-military service for conscientious objectors, double the normal term, which was tantamount to punishing those who claimed conscientious objector status.

99. Mr. KIRUPAHARAN (International Peace Bureau) said he welcomed the Memorandum of Understanding signed by the Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka, which was a first step towards putting an end to 54 years of violations of the civil and political rights of the Tamil people. Since 1987 the Tamil people had been subjected to massive collective punishments, including pogroms, colonialization, killings, arrests, rape and an economic embargo. The Tamil Centre for Human Rights had submitted detailed reports to the Commission. The repression had reached genocidal proportions.

100. The Government of Sri Lanka must abolish the Prevention of Terrorism Act and the emergency regulations and release the political prisoners detained without charge or trial. It must lift the ban on the Liberation Tigers of Tamil Eelam (LTTE) and start the peace process.

101. Although a permanent peace would bring human rights violations to an end, redress must also be sought for human rights violations which had occurred in the past and those responsible must be brought to justice. He urged the Commission to take positive steps in that regard.

The meeting rose at 1 p.m.